

Remarks

As stated above, the applicant appreciates the examiner's thorough examination of the subject application and requests reexamination and reconsideration of the subject application in view of the following remarks.

Concerning Item 1 of the subject action, the Examiner rejects claims 1, 14, 24 and 36, under 35 USC §102(e), based on the teachings of Haszto (i.e., U.S. Patent No.: 6,192,338, hereinafter Haszto).

Of the four claims rejected, three claims (i.e., claims 1, 14 and 24) are independent claims, and dependent claim 36 indirectly depends upon independent claim 24.

The Haszto reference has a filing date of 17 June 1999 and a priority date of 12 August 1997. Further, the Haszto reference does not claim each and every element of independent claim 1, independent claim 14, or independent claim 24 of the subject application.

The subject matter of independent claims 1, 14 and 24 of the subject application were all conceived and reduction to practice was diligently pursued prior to the 12 August 1997 priority date of the Haszto reference, and such diligent pursuit of reduction to practice continued, without lapse, to the filing date of the subject application.

Prior to 12 August 1997, the applicant (i.e., Oleg Boulanov) personally authored source code that disclosed and embodied the subject matter of independent claims 1, 14 and 24 of the subject application. Additionally, this source code was repeatedly and consistently submitted to Source Safe prior to 12 August 1997, concurrently generating a Submission Log that substantiates such repeated and consistent submissions.

Reduction to practice was diligently and consistently pursued by repeatedly executing the source code on one or more computer systems, prior to 12 August 1997, in an effort to sufficiently refine the implementation of the subject matter of claims 1, 14 and 24 and to allow introduction into the marketplace. This effort involved internal development and experimentation by the applicant or by people under the applicant's control, on behalf of Assignee The Eliza Corporation.

A 37 CFR §1.131 Affidavit executed by the applicant, averring to the facts stated above, is attached hereto. Additionally, a true copy of the source code is attached to the affidavit as Exhibit A,

except that the copy has been redacted to remove all references to dates and to partially obscure the code itself (for confidentiality reasons). Further, a true copy of this Submission Log is attached to the affidavit as Exhibit B, except that the copy has been redacted to remove all references to dates.

The partially-redacted copy of the source code (i.e., Exhibit A) and the partially-redacted copy of the Submission Log (i.e., Exhibit B) evidence the conception of the subject matter of claims 1, 14 and 24 of the subject application prior to the 12 August 1997 priority date of Haszto.

Accordingly, the applicant respectfully asserts that Haszto is no longer a proper basis for a 35 USC §102(e) rejection, as the applicant respectfully asserts that the reference may no longer be considered prior art. Therefore, the applicant respectfully asserts that independent claims 1, 14 and 24 are patentable over the cited reference. Further, as dependent claim 36 depends indirectly upon independent claim 24 (an allowable base claim), the applicant respectfully asserts that claim 36 is also patentable over the cited reference.

Concerning Items 2-7 of the subject action, the Examiner rejects dependent claims 2-13, 15-23 and 25-38, under 35 USC §103(a), based on the combination of the teachings of Haszto and one or more of: Motoyama (U.S. Patent Application No.: 20020152292); Struger et al. (U.S. Patent No.: 5,297,257); Sanu et al. (U.S. Patent No.: 5,974,409); Salesky et al. (U.S. Patent No.: 6,343,313); and Edmonds (U.S. Patent No.: 6,230,190).

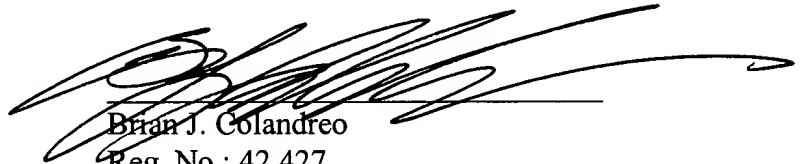
For the reasons discussed above, the applicant respectfully asserts that Haszto is no longer a proper basis for a 35 USC §102(e) rejection, as the applicant respectfully asserts that the reference may no longer be considered prior art. Therefore, the applicant respectfully asserts that independent claims 1, 14 and 24 are patentable over the cited reference. As all of dependent claims 2-13, 15-23 and 25-38 depend, either directly or indirectly, upon independent claim 1, 14 or 24 (i.e., allowable base claims), the applicant respectfully asserts that dependent claims 2-13, 15-23 and 25-38 are also patentable over the cited reference.

The applicant respectfully asserts that the subject application is now in condition for allowance. Please apply any charges or credits to deposit account 50-1133.

If the Examiner believes there are any outstanding issues to be resolved with respect to the above-identified application, the Examiner is invited to telephone the undersigned at their earliest convenience so that such issues may be resolved telephonically.

Respectfully submitted,

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